

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ROSS A. KESSLER,

Plaintiff,

-against-

CAROLYN COLVIN,  
*Acting Commissioner of Social Security*

Defendant.

USDC-SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: <u>9/17/14</u>

No. 13-cv-1760-RA

ORDER ADOPTING  
REPORT AND  
RECOMMENDATION

RONNIE ABRAMS, United States District Judge:

On March 15, 2013, Plaintiff Ross A. Kessler filed this action under Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), seeking review of the final decision of the Commissioner of Social Security (“Commissioner”) denying him Supplemental Security Income benefits. The matter was referred to Magistrate Judge Frank Maas on August 9, 2013. Both parties then filed motions for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c). (Dkts. 9 and 17.) On August 27, 2014, Judge Maas issued a Report and Recommendation (the “Report”) recommending that Plaintiff’s motion be denied and that the Commissioner’s motion be granted.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). “Within fourteen days after being served with a copy [of the report], any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.” Id.; see also Fed. R. Civ. P. 72(b). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the

face of the record.” Munoz v. Colvin, No. 13-cv-1269-VSB, 2014 WL 4449788, at \*1 (S.D.N.Y. Sept. 10, 2014) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

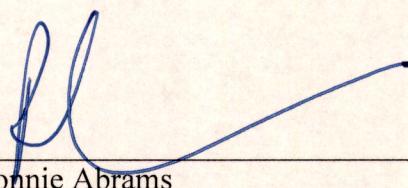
Here, although the Report provided that “[t]he parties shall have fourteen days from service of this Report and Recommendation to file written objections” (Report at 39), as determined by Fed. R. Civ. P. 6(a) and (d), neither party has done so. Accordingly, the Court reviews the Report for clear error and, after careful review of the record, finds none. Judge Maas’s thorough and well-reasoned Report is therefore adopted in its entirety, and Plaintiff’s motion is DENIED and the Commissioner’s motion is GRANTED.

Finally, the Court notes that “[w]here, as here, the magistrate judge’s report states that failure to object will preclude appellate review and no objection is made within the allotted time, then failure to object generally operates as a waiver of the right to appellate review.” Kashelkar v. Village of Spring Valley, 320 F. App’x 53, 54 (2d Cir. 2009) (citing DeLeon v. Strack, 234 F. 3d 84, 86 (2d Cir. 2000)).

The Clerk of Court is respectfully requested to terminate the motions pending at Dkts. 9 and 17 and to close this case.

SO ORDERED.

Dated: September 17, 2014  
New York, New York



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Ronnie Abrams  
United States District Judge